

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 26

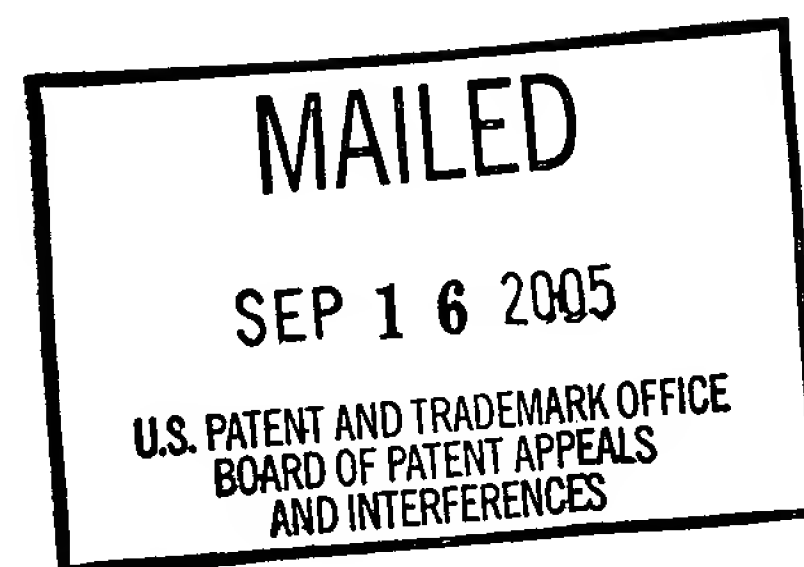
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHRINIWAS OHIA

Appeal No. 2005-0521
Application No. 09/436,920

ON BRIEF



Before JERRY SMITH, LEVY, and BLANKENSHIP, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellant requests that we reconsider that portion of our decision of May 24, 2005 wherein we sustained the rejection of claims 1, 4-7, 10-14, 16 and 18-21 as unpatentable under 35 U.S.C. § 102(e) and the rejection of claims 2, 8 and 15 as unpatentable under 35 U.S.C. § 103(a).

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Appellant asserts that we misinterpreted the teachings of the Flood reference in our original decision which is grounds for reversing our decision with respect to the claims noted above.

We have reconsidered our decision of May 24, 2005 in light of appellant's comments in the request for rehearing, and we find no error therein. We, therefore, decline to make any changes in our prior decision for the reasons which follow.

Appellant argues that there is no "communication link" between terminal 24 and processing modules 18. Appellant bases this argument on his position that terminal 24 and program execution modules 18 cannot concurrently access buses 31-33 of system controller 16. Thus, appellant argues that Flood never establishes a communication link between terminal 24 and processors 18. In other words, appellant's argument is apparently based on appellant's view that a "communication link" requires that the complete path from terminal 24 to processors 18 must exist at the same time.

We note that appellant's arguments with respect to this feature of the claimed invention in the briefs were based on whether there was a connection between terminal 24 and processors 18. We essentially found that terminal 24 was connected to processors 18. We now find that the fact that data in Flood is

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sent from terminal 24 to processors 18 is sufficient to meet the broadest reasonable interpretation of the term "communication link." Appellant had the opportunity in the briefs to argue the meaning of the term "communication link," but failed to do so. Whether the examiner and the Board properly interpreted the term "communication link" is a question of fact which should have been argued before the examiner and should be part of the record we are now reviewing. For purposes of this decision, and based on the record of prosecution, we simply find that a communication link exists between the terminal 24 and the processors 18 of Flood because information is transferred between them.

We have carefully considered the arguments raised by appellant in the request for rehearing, but we can find no errors in our original decision. We are still of the view that the invention set forth in claims 1, 2, 4-8, 10-16 and 18-21 is unpatentable over the applied prior art.

We have granted appellant's request to the extent that we have reconsidered our decision of May 24, 2005, but we deny the request with respect to making any changes therein.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REHEARING - DENIED

Jerry Smith
JERRY SMITH

JERRY SMITH
Administrative Patent Judge

STUART S. LEVY

STUART S. LEVY
Administrative Patent Judge

Howard B. Blankenship

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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